

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

JAMAL D. ORTIZ,

No. C 12-2602 WHA (PR)

Plaintiff,

**ORDER GRANTING IN PART AND
DENYING IN PART MOTION FOR
RECONSIDERATION; AMENDING
ORDER OF SERVICE; DENYING
MOTION FOR TELEPHONE
ACCESS TO HEARING**

v.

GREGORY LEWIS; D. BRADBURY;
K. CRUSE; G. KELLY; GALINDO;
P. SAYRE; S. SPEHLING,

Defendants

(Docket No. 35, 36)

Plaintiff, a pro se prisoner, filed this civil rights case under 42 U.S.C. 1983. Plaintiff has filed a timely amended complaint. Based upon an initial review of the amended complaint pursuant to 28 U.S.C. 1915A(a), certain claims were dismissed and others were found cognizable. Service was ordered upon defendants and dispositive motions were scheduled. Plaintiff has filed a motion for leave to file a motion for reconsideration (dkt. 35), which is **GRANTED IN PART AND DENIED IN PART** as follows:

1) Per plaintiff's request, the claims against defendant D. Bradbury are **DISMISSED**.

2) Reconsideration of the dismissal of plaintiff's equal protection claim is **GRANTED** insofar as plaintiff alleges that he was treated differently and more severely than "hundreds" of other inmates who, like him, have a history of indecent exposure.

3) Reconsideration of the dismissal of plaintiff's claim that his right to privacy was


1 violated is **GRANTED** in light of plaintiff's allegation that defendants' actions disclose his
2 medical condition in violation of his rights under the Fourteenth Amendment, as opposed to the
3 Fourth Amendment. *See Whalen v. Roe*, 429 U.S. 589, 599 (1977); *Doe v. Attorney General*,
4 941 F.2d 780, 795-96 (9th Cir. 1991).

5 4) Plaintiff states that he intends to file a "supplemental" complaint in the future. He
6 may not do so because piecemeal complaints are not allowed. If he wishes to add new claims
7 that are related to the claims pending herein, he must file a motion for leave to file a second
8 amended complaint with his proposed second amended complaint attached, on or before **May 1,**
9 **2013**. If such leave is granted, the second amended complaint will supercede the first amended
10 complaint (currently the operative complaint), and only claims that are included in the second
11 amended complaint will remain in this case. Therefore, he must include in his proposed second
12 amended complaint all of the claims he wishes to pursue.

13 The Order of Service (dkt. 32) is **AMENDED** to reflect the foregoing rulings. Plaintiff
14 need not file a further motion for reconsideration, and his request to appear telephonically at a
15 hearing on such motion (dkt. 36) is **DENIED** as moot.

16 IT IS SO ORDERED.

17 Dated: April 12, 2013.

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20 WILLIAM ALSUP
21 UNITED STATES DISTRICT JUDGE
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